

# **Executive Order**

OFFICE OF  
THE GOVERNOR

NO. 3 FY 96/97  
DATE December 17, 1996

## **AN ORDER DESIGNATING THE STATE AGENCIES RESPONSIBLE FOR WATER QUALITY CERTIFICATION**

WHEREAS, Section 401 of the Federal Water Pollution Control Act, 33 U.S.C. Section 1341, provides that any applicant for a federal license or permit to conduct any activity which may result in any discharge into navigable waters must obtain certification from the state in which the discharge originates that the discharge will comply with state water quality standards and with all applicable provisions of the Federal Water Pollution Control Act; and

WHEREAS, the activities requiring state certification under Section 401 of the Federal Water Pollution Control Act include, but are not limited to, the licensing and relicensing of hydropower projects; dredging, filling or construction of structures in certain waterways and wetlands; and the discharge of pollutants into navigable waterways;

WHEREAS, the Maine Department of Environmental Protection and the Land Use Regulation Commission are the two state agencies currently charged with responsibility to review and certify these activities as compliant with state law in Section 401 proceedings; and

WHEREAS, the State must assure the most efficient use of agency resources and avoid regulatory duplication;

WHEREAS, the implementing regulation of the Federal Water Pollution Control Act, 40 CFR §121, authorizes the Governor of the State of Maine to designate the agency within the State responsible for certifying compliance with applicable water quality standards developed by the State, which agency is termed the "certifying

NOW, THEREFORE, I, ANGUS S. KING, JR., Governor of the State of Maine, do hereby designate the Land Use Regulation Commission the "certifying agency" for all activities located wholly within areas of Land Use Regulation Commission regulatory jurisdiction under 12 M.R.S.A. Chapter 206-A and subject to Land Use Regulation Commission permitting review and approval under the Land Use Regulation Law or the Maine Waterway Development and Conservation. Act.

FURTHER, I do hereby designate the Department of Environmental Protection the "certifying agency" for all activities within the state not subject to Land Use Regulation Commission permitting review and approval under the Land Use Regulation Law or the Maine Waterway Development and Conservation Act, including, but not limited to, the licensing and relicensing Of all existing hydropower projects.

FURTHER, I do hereby direct that the Department of Environmental Protection provide staff analysis and assistance as necessary in all water quality certification proceedings before the Land Use Regulation Commission, and that the Department of Environmental Protection consult with the Land Use Regulation Commission in all water quality certification proceedings before the Department of Environmental Protection for activities affecting the resources of the unorganized territories.

This Executive Order applies to all applications for water quality certification proceedings pending before the Department of Environmental Protection or the Land Use Regulation Commission on or after the date of this Order.

This Executive Order supersedes Executive Order 16 FY 91/92.

The effective date of this Order is December 17, 1996.

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Angus S. King, Jr.  
Governor